

“Estate Planning is Not For You – It’s For Those You Love”

Ten Answers to Calm Your Fears and Save Your Money

By:

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“Does everyone need to have a will drawn up by an attorney?”

No but the percentage that don’t is really small – like seven percent or less.

I don’t believe I’m exaggerating at all when I say that 93% if everyone reading this should have an attorney prepare their estate planning documents. The reasons for having a professionally prepared estate plan are many – protect your family, protect your assets, avoid unnecessary taxes, provide a legacy, and so on. The situation where an estate plan is unnecessary are few. If you are single, have no family, don’t care about anyone or anything else, love the government – you don’t need a will. The rest of us (93%) do.

“Should everyone have a living trust?”

No – not even close. Living trusts are a very popular topic these days, but few (7% or less) of Americans need or would benefit from a living trust.

A living trust (sometimes called a revocable trust) is designed to do one thing very well – avoid probate. Avoiding probate is a very good thing to do. Probate is a plan. However, creating and maintaining a living trust (a plan in and of itself) is not the only, or even, the easiest way to avoid probate. Joint ownership and beneficiary designations are two excellent (and easy and cheap) ways to accomplish the same thing. Transfer on death accounts are very effective at doing the same thing.

Bottom line – 93% of you shouldn’t even consider a living trust.

“How much life insurance should I have?”

I bet you wish there was a simple answer to this age-old question. Sorry.

Life insurance is a tool of financial protection. Rule of thumb (like five times you annual salary) are normally wrong 93% of the time. The determination of your life insurance need is part science and part psychiatry. The science part sounds something like this – add up everything you wish to provide for those you are leaving behind and subtract what you already have – the difference is how much life insurance you need. For example, if I have a young wife, young family, big mortgage and no savings - \$1,000,000 of life insurance may not be enough. On the other hand, if my wife is healthy, my children are grown, my mortgage is paid off, I have a substantial pension and serious savings - \$10,000 may be too much. Half an hour with a financial advisor can clear this up quite nicely.

The psychiatry bit of life is an issue of peace of mind. If you or your spouse would have the greater peace of mind with a larger life insurance benefit than the formula calls for – go for it. If the premiums fit your budget and it helps you sleep at night – life is grand!

“How do I find a good estate planning attorney?”

The guy who helped you close on your house eight years ago should do just fine – not!

The “law” is a terribly big topic. Any attorney who claims to be skilled in all areas of the law (real estate, estates, litigation, matrimonial, business, etc.) – or even more than one area – is either a fool or a fibber. You want an attorney who is trained, experienced, and skilled in this specific area of the law – estates.

The best way to find such an attorney is to question folks you trust and get a good referral. Start with your financial advisor and/or CPA. Check with a banker you trust or a businessman you respect. Interview the candidates and let your instincts be your guide.

“What homework should I do before consulting with an estate planning attorney?”

In order to properly counsel you about your estate plan, a good attorney will want to know a great deal about you. The documents you collect should include: life insurance policies, investment account statements, retirement plan statements, current estate documents (if any), details about real estate holdings, details about mortgages and liens and employee benefit plans. The details you will need to supply include: family information, health concerns, specific bequests and wishes you have, your charitable goals, and legacy wishes.

In order to complete your estate planning documents, you will need to name executor(s), guardian(s) and trustee(s). You will need to carefully consider who, in your life, would

best fit each of these assignments. These are challenging questions and, sometimes, tough ones to answer. Get started now so you'll be ready.

“Should I put the children’s names on the deed to my home?”

This is not normally a good idea.

Most folks asking about this idea are trying to avoid having their home taxed in their estate. Since the vast majority (93%) of estates incur no federal estate tax this move avoids nothing and could cause unintended problems. Once your children are on the deed – they are part owners of your home. If they encounter a situation that might cause them to lose some/all of their assets, your home could go along with the rest. Divorces, bankruptcies, lawsuits all can happen to anyone. If they happen to your children, your home may no longer be your home.

“Is probate as bad as everyone makes it sound?”

Yes and no. Probate is not as expensive as many would want you to believe, but it is very cumbersome and time consuming. Even very simple estates can take a year or more to complete the probate process. To the greatest extent that you are able (within reason) avoiding probate makes sense.

“Where does Long Term Care Insurance fit into my estate planning?”

For many folks (93% or so) LTCI is the key to preserving their estates.

For most folks the number one threat to their estates is not taxation – it is the loss of their health. The cost of care – whether in a nursing home or at home – has risen to a dramatic level. Even estates with hundreds of thousands of dollars of assets can be quickly decimated by the cost of care. Ironically, if one spouse loses their health, it is often the healthy spouse that suffers. Their suffering, of course, is emotional but can also be physical and financial. LTCI can provide the resource needed to protect both spouses from the impact of health loss.

Spending a small slice of one’s portfolio earnings on LTCI premiums might become an excellent investment and an important key to preserving estate assets.

“How can I be sure my wishes are carried out if I become incapacitated?”

Use a living will, please.

Properly prepared, a living will insures your wishes are known and carried out. If you choose not to have a living will you may be choosing to become nationally famous – like Terri Schiavo.

“Should I gift away my assets to avoid estate taxes?”

Maybe, but probably not.

Most (93%) estates are not estate taxable – therefore gifting out of these estates does not save taxes. In these cases, gifting should be done for other reasons – like you can afford it and it feels great.

If your estate is large enough to incur federal taxes, you must consider a sophisticated and well thought-out gifting program. Gifts can be an exceptionally effective way to trim an estate tax bill and have fun at the same time.

In summary

If you care about anyone, you will want to pre-plan your estate.

If you want to do it right, you should counsel with a qualified estate planning attorney.